

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 03/14/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PERRY WELLS,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

22-CV-0233 (VEC)

19-CR-212-2 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on January 10, 2022, Mr. Wells, who is proceeding *pro se*, filed a letter requesting that his sentence be recalculated, 19-CR-212, Dkt. 310,

WHEREAS on January 10, 2022, the Court construed Mr. Wells' motion as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, 19-CR-212, Dkt. 311;

WHEREAS the Court directed the Clerk of Court to open a parallel civil case for Mr. Wells' habeas petition, *id.*;

WHEREAS on January 11, 2022, a parallel civil case was opened pursuant to the Court's order, *see* 22-CV-233;

WHEREAS on January 19, 2022, the Court informed Mr. Wells that to proceed with a petition for a writ of habeas corpus in this Court, a petitioner must either pay the \$5.00 filing fee or, submit a signed application to request authorization to proceed *in forma pauperis* (IFP), that is, without prepayment of fees pursuant to 28 U.S.C. §§ 1914, 1915, *see* Order, Dkt. 22-CV-233, Dkt. 4;

WHEREAS the Court noted that Mr. Wells had submitted his petition without paying the filing fee or completing an IFP application, *id.*;

WHEREAS the Court ordered Mr. Wells, within thirty days of the date of its order, to either pay the \$5.00 filing fee or complete and submit an enclosed IFP application, *id.*;

WHEREAS the Court informed Mr. Wells that if he fails to comply with this order within the time allowed, the action will be dismissed, *id.*; and

WHEREAS more than fifty days have elapsed since the Court's order and Mr. Wells has not paid the filing fee or completed and submitted an IFP application.


IT IS HEREBY ORDERED that Mr. Wells' habeas petition is DISMISSED for failure to pay the filing fee or submit a signed application requesting authorization to proceed *in forma pauperis*.

IT IS FURTHER ORDERED that the Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

The Clerk of Court is respectfully directed to mail a copy of this Order to the *pro se* Petitioner and to note the mailing on the docket. The Clerk is further directed to close the case 22-CV-233.

SO ORDERED.

Date: March 14, 2022
New York, NY



VALERIE CAPRONI
United States District Judge